

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:10cv316**

<b>REGIONS BANK,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>Vs.</b>	)	<b>ORDER</b>
	)	
<b>ARTHUR SECOR; DANITA-DYANN</b>	)	
<b>SECOR; JAMES BARNES; and</b>	)	
<b>JUDITH SECOR,</b>	)	
	)	
<b>Defendants.</b>	)	
	)	

**THIS MATTER** is before the court on plaintiff's Motion to Dismiss Counterclaims and Strike Affirmative Defenses (#18). After such motion was filed, defendants filed their First Amended Answer and Counterclaims (#24). By amendment, the Motion to Dismiss is moot as a matter of law. Young v. City of Mount Ranier, 238 F. 3d 567, 573 (4th Cir. 2001) (“[t]he general rule ...is that an amended pleading supersedes the original pleading, rendering the original pleading of no effect); Taylor v. Abate, 1995 WL 362488, \*2 (E.D.N.Y.1995)<sup>1</sup> (“Defendants' motion to dismiss is addressed solely to the original complaint.... Consequently, upon the filing of the amended complaint, their motion is mooted and, therefore, denied.”); In re Colonial Ltd. Partnership Litig., 854 F.Supp. 64, 80 (D.Conn.1994) (noting where “a plaintiff amends its complaint while a motion to dismiss is pending” the court may “deny[ ] the motion as moot”); Rathke v. HCA Management Co., Inc., 1989 WL 161431, at \*1 n. 1 (D.Kan.1989) (holding that “motion to dismiss ... became moot when plaintiff filed an amended complaint”); Gresham v. Waffle House, Inc., 586 F.Supp. 1442,

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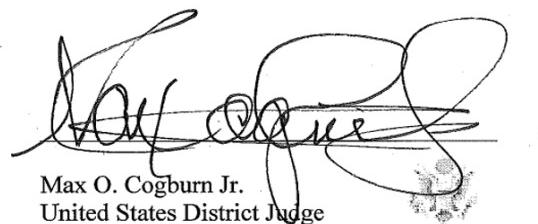
<sup>1</sup> Due to the limits of ECF, copies of unpublished decisions cited in this Order are incorporated into the court record through reference to the Westlaw citation.

1444 n. 1 (N.D.Ga.1984) (same). The motion will be denied without prejudice as moot.

**ORDER**

**IT IS, THEREFORE, ORDERED** that plaintiff's Motion to Dismiss Counterclaims and Strike Affirmative Defenses (#18) is **DENIED** without prejudice as moot.

Signed: May 24, 2011



The image shows a handwritten signature in black ink, appearing to read "Max O. Cogburn Jr.". Below the signature, there is a small, faint, illegible stamp or mark.

Max O. Cogburn Jr.  
United States District Judge